

### Remarks

The Applicant has amended Claim 1 to recite the presence of purslane in an amount therapeutically sufficient to inhibit inflammation. Support may be found in the Applicant's Specification beginning in Paragraph [0033] and extending through Paragraph [0041], for example. In that regard, the Applicant conducted experiments which demonstrated the surprising inflammatory inhibition capability of the purslane relative to other well-known inflammatory agents such as aspirin and indomethacin. This surprising efficacy is particularly well shown in Tables 1 and 2 in the Applicant's Specification. Entry into the official file and consideration on the merits is accordingly respectfully requested.

Claims 1, 2, 4 and 8-14 stand rejected under 35 U.S.C. §103 over the combination of Simopoulos, JP '466 and Boo. The Applicant notes, however, that the detailed portion of the rejection in the second full paragraph of Page 3 apparently further relies on Dimentii. Accordingly, the Applicant will treat the above rejection as a combination of Dimentii and Simopoulos with JP '466 and Boo. In the event that the Applicant misinterprets the intention of this rejection, the Applicant respectfully requests a further opportunity to address this rejection.

In any event, the Applicant respectfully submits that one skilled in the art would not make the hypothetical combination and, such a combination is non-enabling. Details are set forth below.

The Applicant first agrees with the Examiner's frank acknowledgement that Boo and JP '466 fail to disclose buffalo grass extract and purslane extract. The rejection relies on Dimentii for teachings concerning buffalo grass extract and Simopoulos for teachings concerning purslane.

With respect to Simopoulos, the Applicant reproduces the entirety of that Abstract disclosure for the Examiner's convenience:

omega-3 fatty acids, alpha-tocopherol, ascorbic acid, beta-carotene and glutathione determined in leaves of purslane (*Portulaca oleracea*), grown in both a controlled growth chamber and in the wild, were compared in composition to spinach. Leaves from both samples of purslane contained higher amounts of alpha-linolenic acid (18:3w3) than did leaves of spinach. Chamber-grown purslane contained the highest amount of 18:3w3. Samples from the two kinds of purslane contained higher leaves of alpha-tocopherol, ascorbic acid and glutathione than did spinach. Chamber-grown purslane was richer in all three and the amount of alpha-tocopherol was seven times higher than that found in spinach, whereas spinach was slightly higher in beta-carotene. One hundred grams of fresh purslane leaves (one serving) contain about 300-400 mg of 18:3w3; 12.2 mg of alpha-tocopherol; 26.6 mg of ascorbic acid; 1.9 mg of beta-carotene; and 14.8 mg of glutathione. We confirm that purslane is a nutritious food rich in omega-3 fatty acids and antioxidants.

One skilled in the art, having read the Simopoulos disclosure, can quickly see that there is nothing in Simopoulos that would cause one skilled in the art to employ the purslane disclosed by Simopoulos with any of Dimentii, JP '466 and Boo. That is because the Simopoulos disclosure is directed to a comparison of purslane with spinach in the context of providing a nutritious food. There is nothing that would cause one skilled in the art to employ the purslane of Simopoulos directed to nutritious foods as a component in a cosmetic composition. As a consequence, the Applicant respectfully submits that one skilled in the art would have no reasonable expectation of having any benefit to be gained by employing a component that is taught to be in nutritious food as a component in a cosmetic composition. Hence, the Applicant respectfully submits that one skilled in the art would simply not combine Simopoulos with the other three references. On this basis alone, the Applicant respectfully submits that Claims 1, 2, 4 and 8-14 are allowable.

However, there is more. The Applicant's independent Claim 1 specifically recites that the purslane is a component in the cosmetic composition in an amount therapeutically sufficient to inhibit inflammation. When one skilled in the art looks to Simopoulos, it quickly becomes apparent that there is no disclosure concerning the inhibition of inflammation at all in Simopoulos. There is

not one word in Simopoulos concerning the possibility of purslane having an inflammation inhibitory capability. Thus, in the context of the Applicant trying to develop a cosmetic composition having inflammation inhibitory abilities, one skilled in the art would not look to Simopoulos because Simopoulos does not even recognize the ability of purslane to inhibit inflammation. Thus, the Applicant respectfully submits that Simopoulos is non-enabling as prior art with respect to the Applicant's claimed purslane present in the cosmetic composition in an amount therapeutically sufficient to inhibit inflammation. The Applicant therefore respectfully submits that Simopoulos is unavailable as prior art to be combined with the other three references against the above-identified claims.

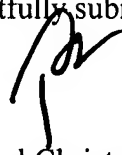
Of course, since Simopoulos does not refer to inflammation inhibition at all, Simopoulos is further non-enabling with respect to the amount of purslane that would be necessary to inhibit inflammation. In sharp contrast, the Applicant has not only disclosed amounts of purslane present in an amount therapeutically sufficient to inhibit inflammation, the Applicant actually claims an amount of purslane therapeutically sufficient to inhibit inflammation. The Applicant therefore further respectfully submits that Simopoulos is non-enabling as prior art for use in combination with Dimentii, JP '466 and Boo to produce a cosmetic composition that includes a water soluble extract of purslane in an amount therapeutically sufficient to inhibit inflammation. As such, the Applicant respectfully submits that even if one skilled in the art were to make the hypothetical combination, the resulting combination would still fail to provide any disclosure or teachings with respect to the claimed inhibition of inflammation. Withdrawal of the rejection is respectfully requested.

Claims 3 and 5-7 stand rejected under 35 U.S.C. §103 over the further hypothetical combination of Barrett with Bracco with the other Simopoulos, Dimentii, JP '466 and Boo references. The Applicant respectfully submits that neither Barrett or Bracco provide disclosure that

can cure the deficiency set forth above with respect to Simopoulos, Dimentii, JP '466 and Boo, particularly with respect to the Applicant's purslane in an amount therapeutically sufficient to inhibit inflammation. Withdrawal of that rejection is also respectfully requested.

In light of the foregoing, the Applicant respectfully submits that the entire Application is now in condition for allowance, which is respectfully requested.

Respectfully submitted,



T. Daniel Christenbury  
Reg. No. 31,750  
Attorney for Applicant

TDC/as  
(215) 656-3381